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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,989	10/22/2003	Michel Pelletier	086170-0306167	8983
909	7590	08/09/2005	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102			NEWVILLE, TONI E	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/689,989

**Applicant(s)**

PELLETIER, MICHEL

**Examiner**

Toni Newville

**Art Unit**

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on May 20, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation, "said lifting cylinder having...an opposite pivot point connected to said bracket and having a first axis allowing said lifting cylinder to rotate relative to said bracket." This limitation does not match the original claims, specifically claims 6 and 7, and does not correspond to the disclosures of the drawings or the specification. The device as described in the disclosure and original claims describes the lifting cylinder as being fixedly connected to the bracket (Figure 2), making it unable to rotate relative to said bracket.

### ***Claim Rejections - 35 USC § 102***

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Frisbee, US 4074770. Note that claim 1 is being interpreted to be consistent with the disclosure given in the specification and drawings, and not necessarily the exact language of the amended claims, as discussed above.

Regarding claim 1, Frisbee discloses:

- A frame (20);
- A plow (26);
- A bracket (36) pivotally connected to said frame (38);
- A strut (32) for lifting the plow (26) with respect to the frame (38), said strut (32) having a pivot point (34) connected to the plow (26) and an opposite point (Figure 1) connected to said bracket (36) and having a first axis (Figure 1); and
- A rolling cylinder (44) for tilting the plow (26) with respect to the frame (38), said rolling cylinder (44) having a pivot point (46) connected to the plow (26) and an opposite point (48) connected to said bracket (36) and having a second axis (Figure 1),
- Wherein said opposite point (48) of said rolling cylinder (44) and said opposite point (Figure 1) of said strut (32) are rotatably secured to said bracket (36) around said first and second axes (Figure 1); and
- Wherein the rolling cylinder (44) can freely rotate relative to the bracket (36) around said opposite pivot point (Figure 1) of said strut (32) with displacement of said strut (32).

Regarding claim 2, Frisbee further discloses a rigid arm (28) pivotally connected (30) to the plow (26) and pivotally connected (58) to the frame (20).

Regarding claim 3, Frisbee further discloses that the strut (32) is pivotally connected (34) to the rigid arm (28).

***Claim Rejections - 35 USC § 103***

4. It is noted in the rejection of claim 1 above that "cylinder" is interpreted broadly as any type of cylinder. However, the specification provided by the applicant refers to the cylinder as a hydraulic cylinder. The rejection below, therefore, applies with the interpretation of "cylinder" in claim 1 as being a hydraulic cylinder.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frisbee in view of Ranner, US 4562891.

Frisbee discloses a plow assembly as disclosed above. Frisbee fails to disclose a lower hydraulic cylinder attached to the plow blade and the assembly's frame; instead, Frisbee discloses a rigid strut (32).

Like Frisbee, Ranner discloses a device to mount a blade on the front of a vehicle. Ranner, however, includes a lower hydraulic cylinder (4) rather than a strut attached to the plow blade and the assembly's frame.

Given the suggestion in Ranner, it would have been obvious to one of ordinary skill in the art to include a hydraulic cylinder (Ranner; 4) rather than a strut (Frisbee; 32) in the device of Frisbee because including another cylinder creates an additional degree of freedom for blade movement, thereby allowing more precise actuation of the blade.

***Response to Arguments***

Art Unit: 3671

6. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

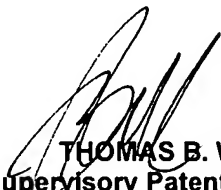
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toni Newville whose telephone number is (571) 272 - 1548. The examiner can normally be reached on Monday - Friday 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Toni Newville  
July 28, 2005

  
**THOMAS B. WILL**  
Supervisory Patent Examiner  
Group 3600